

FIFTH AMENDMENT TO LEASE BETWEEN
MILWAUKEE COUNTY AND
MILWAUKEE COUNTY RESEARCH PARK CORPORATION
FOR THE BUILDING COMMONLY KNOWN AS
M-1 ("Fifth Amendment")

This Fifth Amendment is dated as of _____, 20__ between MILWAUKEE COUNTY (the "County") and the MILWAUKEE COUNTY RESEARCH PARK CORPORATION ("MCRPC").

RECITALS

1. The County and MCRPC entered into a certain lease for part of the building formerly known as the Muirdale M-1 Building (the "Building"), now known as the Technology Innovation Center (the "TIC"), and certain parking related thereto, which lease was dated as of March 15, 1993 (the "Original Lease").

2. The County and MCRPC entered into a certain TIC Agreement, further defining their relationship related to the TIC, which agreement was dated as of March 9, 1993 (the "TIC Agreement").

3. The Original Lease was amended by that certain First Amendment to Lease between the County and MCRPC for the TIC (the "First Amendment"), which was dated as of April 26, 1994.

4. The Original Lease, the TIC Agreement, as modified by the First Amendment and Second Amendment, was further amended by the Third Amendment ("Third Amendment"), dated as of February 19, 1998 (extended the premises to the entire TIC, herein, the "Premises").

5. The Original Lease, the TIC Agreement, as modified by the First Amendment and Second Amendment, was further amended by the Third Amendment ("Third Amendment"), dated as of February 19, 1998 (extended the premises to the entire TIC).

6. The Original Lease, the TIC Agreement, as amended by the First Amendment, extended by the Second Amendment, and amended by the Third Amendment was further amended by the Fourth Amendment ("Fourth Amendment"), dated as of September 30, 1998 (extending the lease through September 30, 2003, and granting MCRPC three five-year options to extend the lease, all of which were exercised), thereby extending the lease term through September 30, 2018.

7. The Original Lease, the TIC Agreement, as amended by the First Amendment, extended by the Second Amendment, amended by the Third Amendment, and amended by the Fourth Amendment, and subsequently extended, shall hereinafter be collectively referred to as the "Lease."

8. The County and MCRPC now desire to amend the Lease so as to change the terms and conditions thereof, redefine the Premises and provide MCRPC an option to purchase the Building and underlying and adjacent land, including Outlot 1 (as hereinafter defined).

9. The County has authorized the execution of this Agreement by the Resolution attached hereto and incorporated herein as Exhibit A. MCRPC has authorized execution of this Agreement by Authorization Resolution (2014-15) adopted at its October 7, 2014 Board of Directors meeting, as modified by Authorization Resolution (2014-16), at its December 2, 2014 Board of Directors meeting. The County and MCRPC now desire to modify and amend the Lease pursuant to the terms and conditions set forth herein.

AGREEMENTS

In consideration of the Recitals and mutual agreements which follow, the County and MCRPC agree as follows:

1. **Term.** The new term of the Lease shall begin February 1, 2015 (the "Effective Date") and end on December 31, 2015.

2. **Rent.** MCRPC shall deliver to the County rent of one dollar (\$1.00) per year, payable on or before March 1 of each calendar year of the Lease.

3. **Options to Extend.** The County hereby grants MCRPC three one-year options to extend the Lease on the following terms and conditions for the calendar years (commencing on January 1 and ending on December 31 of each calendar year) of 2016, 2017, and 2018.

- a. Each option to extend the term of the Lease shall be automatic, unless MCRPC delivers written notice to the County at least 60 days prior to such calendar year, confirming that MCRPC is electing to terminate the Lease.
- b. All terms and conditions of this Lease applicable to the original Lease term shall be applicable to any extension terms.

4. **Premises.** The definition of Premises is hereby amended to include Outlot 1, as described on CSM 7909.

5. **Maintenance of the Premises.** As of the Effective Date, the County shall have no further obligation for, and MCRPC shall assume, all costs and responsibilities associated with the maintenance, capital improvements, repairs, replacements, utilities and operation of the Premises (unless such obligations are allocated to subtenants of the Premises).

- a. MCRPC's assumption of costs and responsibilities includes, but is not limited to, all maintenance and responsibilities currently performed at the Premises by the County. The County agrees that on or before the Effective Date, the County shall provide to MCRPC the following: all plans, specifications, drawings, schematics, warranties, guaranties and all other documents, whether hard copy or by computer file, in the possession of the County in any way related to, or arising out of, the physical operation and maintenance of the TIC; all parts, supplies, materials, tools and equipment, used or related to, or arising out of, the TIC; and all keys, access cards and any other personal property related to, or arising out of, the TIC and its maintenance or operation by the County.

6. **Sub-Tenants Rent.** MCRPC shall retain all rents collected from sub-tenants at the TIC, which shall be used to pay for the operation of the Premises and other MCRPC expenses.

- a. Notwithstanding the foregoing, County and MCRPC agree that this Amendment hereby amends that certain Commercial Lease dated as of _____, 2014 between the parties for approximately 5,730 square feet of office space commonly known as Rooms 500, 502, 506, 508, 516, 517, 518, 519, 520, 521, 522, 524, 526, 540, 544, 546, 548, 550, 557, 559, 560, 561, 562, 564, 566 located on the fifth floor of the Building (the "County Transit Lease") as follows: The second paragraph of Section 5 providing for credit to the County, given the County maintenance and repair obligations existing under the Lease prior to the Effective Date, is hereby deleted in its entirety. The reference in the first paragraph of Section 5 to: "(subject to the credit below)" is hereby deleted as well. The rent payable by the County to MCRPC as of the Effective Date shall be \$4,058.82 per month, as required by the County Transit Lease.

7. **Option to Purchase.** The County hereby grants MCRPC the option to purchase the Premises and underlying land subject to the Lease from the County for one dollar (\$1.00) for a period of twelve (12) months commencing upon the execution of this Fifth Amendment.

- a. MCRPC may exercise its right to purchase by providing written notice to the County. Such written notice shall include written approval of the purchase by MCRPC's Board of Directors.
- b. In the event MCRPC exercises its Option to Purchase the County shall transfer the Premises and underlying land adjacent land and Outlot 1 subject to the Lease by special warranty deed to MCRPC, or an appropriate 501(c)(3) or other single purpose entity, approved in advance by the MCRPC Board of Directors. The County shall purchase customary title insurance for MCRPC's acquisition. The County and MCRPC agree to cooperate with each other in connection with this closing and execute such title affidavits (including an owner's affidavit and gap affidavit) and such other documents as are reasonable and/or customarily required by the title company to complete the transaction.
- c. The closing on the purchase of the Premises shall occur within 45 days after exercise of the Option to Purchase by MCRPC, with the exact date and location to be reasonably designated by MCRPC.
- d. Prior to closing on the acquisition, MCRPC shall retain a surveyor to survey the Premises and underlying and adjacent lands and Outlot 1 to provide a clear legal description of such lands, and if necessary, to prepare a certified survey map (the "CSM"). In the event that MCRPC determines that a CSM is needed or desired, the County shall cooperate and sign the CSM upon request from MCRPC.

8. **Insurance.** MCRPC shall procure insurance in the amount and type agreed upon by MCRPC and the County, with assistance from the County Risk Manager, for the term of the TIC Lease.

9. **Miscellaneous Required Lease Modifications.** Notwithstanding anything to the contrary provided for in the Lease, the parties hereby agree to further amend and modify the Lease as follows:

a. The entire second paragraph of Section 1 of the Lease providing for: "the County's use of the remainder of M-1..." is hereby deleted in its entirety. Other than as provided for in the County Transit Lease, the County shall have no further use rights in the Premises. The Rent provided for in Section 2 of this Fifth Amendment is the sole rent payable to the County, thus, all of Section 5 of the Lease is hereby deleted given the fact that Section 2 of this Fifth Amendment governs applicable rent.

b. The references in Section 6 of the Lease to MCRPC delivering copies of the subleases to the County and all notices required by such sublease are hereby deleted as they are no longer applicable. In addition, in Section 6(b), the right of the County to terminate the Lease and any sublease related to the County's prior obligation to repair and maintain (which has now been eliminated by this Fifth Amendment) is hereby deleted in its entirety.

c. In Section 6. (g) (i) and g. (ii) on Page 10 of the Lease, the retainage of keys by the County and right to access for repairs and alterations and other work are hereby deleted in their entirety.

d. Section 6 (g) (v) on Page 12 is hereby deleted in its entirety because the County no longer has interest in regulating signage at the Premises. Similarly, Section 6 (g)(vii) is hereby deleted, removing the right of the County to tow away and remove vehicles stored at the Premises. Section 6 (j) is hereby deleted, again because the County has no need to enter to inspect and perform maintenance and repairs at the TIC. Similarly, in Section 6 (k). on Page 13, the reference to repairs, renewals, improvements, alterations, and similar references are hereby deleted.

e. In Section 6 (l) on Pages 13 and 14 of the Lease, the option of the County to terminate the Lease and all subleases in the event of damage or destruction by fire or other casualty is hereby deleted in its entirety.

f. The reference on Page 23 of the Lease to allow the County to terminate the Lease in the event of cost of repairs exceeding the economic benefit of such repair is hereby deleted. All of these responsibilities shall now be MCRPC's, and the County no longer needs such termination right. Similarly, in this same section, the County option to terminate if the cost of repair of the steam tunnels, water lines, sewer lines or any other building service functions are excessive and thereby granting County the option to terminate the Lease are hereby deleted in their entirety.

g. The second paragraph of Section 14 on Page 24 of the Lease is hereby deleted in its entirety. The County shall not have the right to demolish the Premises and terminate the Lease.

h. Notwithstanding anything to the contrary provided for in the Lease, the County shall have no termination rights of the Lease, and all prior termination rights are hereby deleted in their entirety.

10. **No Other Modifications.** Except as specifically amended by this Fifth Amendment, the Lease shall remain unmodified and in full force and effect. This Fifth Amendment shall be binding upon the parties hereto, and their respective successors, heirs and assigns. This Fifth Amendment may be executed in multiple counterparts, and when signed by authorized individuals on behalf of both parties, and delivered to the other party, shall be deemed one document and binding upon the parties hereto. This Fifth Amendment may be signed and delivered by original or electronic copy of such individual's signature, and when so signed and delivered to the other party, shall be deemed binding on such party. The undersigned individuals signing on behalf of the parties hereto hereby represent and warrant that they have full power and authority to execute this Fifth Amendment, without any further approval or consent, thereby binding the respective parties hereto. The parties hereby represent and warranty to each other that neither has any knowledge of any default by either party under the Lease as of the date they signed this Fifth Amendment.

MILWAUKEE COUNTY

BY: _____
Teig Whaley-Smith - Milwaukee County

MILWAUKEE COUNTY RESEARCH
PARK CORPORATION

BY: _____
David Dull - Chairman MCRPC

Approved for Execution

BY: _____
Corporation Counsel